

BILL NO. G - 84-05-19

ORDINANCE NO. 9-10-84

An ORDINANCE Creating a New Chapter
Providing for Historic Preservation
Districts

BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF FORT WAYNE, INDIANA:

SECTION 1. All of present Article IX of Chapter 33 comprising Sections 33-33 to 33-40 of the Code of the City of Fort Wayne is hereby repealed.

SECTION 2. Article IX of Chapter 33 shall be designated "Reserved."

SECTION 3. A new Chapter 34 of the Code of the City of Fort Wayne is hereby created. This Chapter shall be entitled "Historic Preservation and Protection Districts."

SECTION 4. Chapter 34 is comprised as follows:

ARTICLE I. PURPOSE

Section 34-1: Purpose of Historic Preservation and Protection.

In order to promote the economic, educational, cultural, and general welfare of the citizens of Fort Wayne; to insure the harmonious, orderly, and efficient growth and development of the municipality; and to preserve and protect the historic or architecturally worthy buildings, structures, sites, monuments, streetscapes, and neighborhoods of historic districts, it is deemed essential by the City of Fort Wayne that the qualities relating to the history of the City and a harmonious outward appearance of structures which support and enhance property values and attract residents be preserved. Some of these qualities are the continued existence, restoration, and preservation of historic areas and buildings, the construction of compatible new buildings where appropriate, and a general compatibility as to style, form, proportion, texture, and material between the buildings of historic design and those of contemporary design. This purpose is advanced through the preservation and protection of the historically or architecturally worthy structures, sites, and districts which impart a distinct aesthetic quality to the City and which serve as visible reminders of the historic heritage of

1 the City.

2 ARTICLE II. HISTORIC PRESERVATION REVIEW BOARD

3 Section 34-2. Establishment of the Historic Preservation Review Board.

4 (a) Creation: For the purpose of making effective the provisions
5 of this ordinance, there is hereby established an historic
6 district board of review to be known as the Historic Preser-
7 vation Review Board (hereinafter referred to as "the Board").

8 (b) Staffing: The staff of the City of Fort Wayne Department of
9 Community Development and Planning (hereinafter referred to as
10 "the staff") shall serve as staff to the Board. Each official
11 of the City who has responsibility for building inspection,
12 building permits, planning, or zoning shall provide necessary
13 technical, administrative, or clerical assistance requested by
14 the Board.

15 (c) Composition: The Board shall consist of seven (7) voting
16 members who must be residents of the City of Fort Wayne. All
17 members shall be appointed by the Mayor of the City of Fort
18 Wayne subject to the approval of the Fort Wayne Common Council
19 (hereinafter referred to as "Common Council"). Of the members
20 appointed, at least one shall be an architect with Indiana
21 architectural certification; at least one shall own or lease
22 property in a designated historic district; at least one shall
23 be a contractor licensed by the Fort Wayne/Allen County Build-
24 ing Department; at least one shall be an historian; and all
25 members shall have an interest in the preservation and develop-
26 ment of historic buildings and areas.

27 One non-voting, advisory member may be appointed to the Board
28 in the same manner as voting members. Such a member shall
29 have recognized expertise in the field of historic preserva-
30 tion. The term of the advisory member shall be for one (1)
31 year commencing on January 1 and expiring on December 31. No
32 voting member shall be employed by the City of Fort Wayne.

1 (d) Terms of Office: Terms of voting Board members appointed to
2 terms commencing January 1, 1985 shall be staggered as fol-
3 lows: three (3) members for three (3) year terms, two (2)
4 members for two (2) year terms, and two (2) members for one
5 (1) year terms. Thereafter, voting members shall each serve
6 for a term of three (3) years. All terms shall commence on
7 January 1 and expire on December 31. A vacancy shall be
8 filled through appointment by the Mayor and approval of the
9 Common Council only for the unexpired duration of the term.
10 Board members appointed consistent with Article IX of Chapter
11 33 shall constitute the Board under this ordinance until
12 December 31, 1984 after which it shall be dissolved and re-
13 appointed consistent with this ordinance.

14 (e) Serve Without Compensation: Members of the Board shall serve
15 without compensation except for reasonable expenses incurred
16 in the performance of their duties.

17 Section 34-3: Organization of the Board.

18 (a) Board Administrator: The Director of the Department of Com-
19 munity Development and Planning or his designee shall serve
20 exofficio as administrator of the Board. The administrator
21 shall provide staff assistance to the Board, act as the Board's
22 secretary, and issue certificates of appropriateness as di-
23 rected by the Board.

24 (b) Board Officers: The Board shall elect from its membership a
25 chairman and vice chairman, who shall serve for one (1) year
26 and may be re-elected.

27 (c) Board Meeting: The Board shall hold regular meetings, at
28 least monthly, except when it has no business pending. Spe-
29 cial meetings may be called in a manner determined by the
30 Board in its rules. All meetings of the Board must be open to
31 the public, and a public record of the Board's resolutions,
32 proceedings, and actions must be kept.

1 (d) Board Rules: The Board shall adopt rules consistent with this
2 ordinance for the transaction of its business. The rules
3 shall include, but not be limited to, the following:

4 (1) time and place of regular meetings

5 (2) a procedure for the calling of special meetings

6 (e) Quorum: A quorum of four (4) voting members of the Board must
7 be present at a meeting for the Board to take action.

8 (f) Board Action: Any action of the Board taken at a meeting at
9 which a quorum is present shall be determined by a majority of
10 those actually voting.

11 Section 34-4: Powers of the Board.

12 (a) The Board shall be concerned with those elements of develop-
13 ment, redevelopment, rehabilitation, and preservation that
14 affect visual quality in the historic district.

15 (b) The Board may not consider details of design, interior ar-
16 rangements, or building features if those details, arrange-
17 ments, or features are not subject to public view.

18 (c) The Board may not make any requirement except for the purpose
19 of preventing development, alteration, or demolition in the
20 historic district obviously incongruous with the historic
21 district.

22 (d) The Board shall conduct a survey or may adopt existing surveys
23 to identify historic buildings, structures, places located
24 within the City.

25 (e) The Board may draw and submit to the Common Council for its
26 approval a map or maps describing the boundaries of an his-
27 toric district or historic districts. Any such map shall
28 first be submitted to the Plan Commission for its review and
29 comment.

30 (f) The Board may issue certificates of appropriateness for any
31 actions required by Section 34-6 of this ordinance.

32 (g) The Board may adopt rules consistent with this ordinance

designating more specifically situations not requiring a
Certificate of Appropriateness under Section 34-6.

ARTICLE III. HISTORIC DISTRICTS AND STANDARDS TO APPLY THEREIN

Section 34-5: Establishment of Historic Districts.

(a) Initiating An Historic District Recommendation: A recommen-
dation for establishing an historic district may be initiated
from either of the following two sources:

(1) Based on its survey, the Board may draw and submit in
accordance with this ordinance historic district maps for
Common Council approval. Such maps shall first be
submitted to the Plan Commission for its review and
comment.

(2) Owners of property in fee simple wishing to establish an
historic district which includes their property may
petition the Board to consider drawing and submitting a
map of said property to the Common Council for its
approval. The Board may establish in its rules criteria
to be met before it considers a petition.

(b) Preparation of historic district maps: In order to establish
an historic district, the Board shall first prepare a map
describing said district in accordance with the following:

(1) The map shall be based on a survey conducted or adopted
by the Board which identifies historic buildings, struc-
tures, and places located within Fort Wayne.

(2) A district may be limited to the boundaries of a property
containing a single building, structure, or site.

(3) The map may divide the district into primary and second-
ary areas as follows:

a. Primary Area - The principal area of historic and
architectural significance.

b. Secondary Area - An area adjacent to a primary area
which has a visual relationship to the primary area

1 and could affect the preservation of the primary
2 area. The purpose of designating a secondary area
3 is to assure its compatibility and harmony with an
4 adjacent primary area.

5 (4) The Board shall also classify and designate on the map
6 all buildings and structures within each historic dis-
7 trict described on the map as follows:

8 a. Historic - Such buildings and structures must pos-
9 sess identified historic and architectural merit of
10 a degree warranting their preservation. These may
11 be further classified by any system which the board
12 devises.

13 b. Nonhistoric - Buildings and structures not clas-
14 sified on the map as historic.

15 (c) Approval of maps of historic districts: Before an historic
16 district is established and the building classifications take
17 effect, the map setting forth its boundaries and building
18 classifications must be submitted to, and approved in an or-
19 dinance by, the Common Council. The procedure for doing so
20 shall be as follows:

21 (1) In accordance with Section 34-3 of this ordinance, the
22 Board must take official action deciding whether or not
23 to submit a map to Common Council for its approval.

24 (2) Prior to taking action at a meeting, the Board shall hold
25 a public hearing to allow public comment. A public
26 hearing may be held separately or in conjunction with the
27 meeting where action on the district is to occur.

28 (3) A public hearing held by the Board for the purpose of
29 allowing comment on a proposed historic district de-
30 signation shall be preceded by public notice as set forth
31 in I.C. 5-3-1.

32 (4) Before submitting a map to Common Council, the Board

1 shall first submit it to the Plan Commission for its
2 review and comment.

3 (d) Historic District Criteria - An historic district shall not be
4 established unless the proposed map includes a building,
5 groups of buildings, structure(s), site(s), monument(s),
6 streetscape(s), or neighborhood(s) which meet at least one of
7 the following criteria:

8 (1) Historic

- 9 a. has significant character, interest, or value as
10 part of the development, heritage, or cultural
11 characteristics of the City, State, or Nation; or is
12 associated with the life of a person significant in
13 the past; or
14 b. is the site of an historic event with a significant
15 effect upon society; or
16 c. exemplifies the cultural, political, economic,
17 social, or historic heritage of the community.

18 (2) Architecturally Worthy

- 19 a. portrays the environment in an era of history char-
20 acterized by a distinctive architectural style; or
21 b. embodies those distinguishing characteristics of an
22 architectural or engineering type; or
23 c. is the work of a designer whose individual work has
24 significantly influenced the development of the
25 community; or
26 d. is the work of a designer of such prominence that
27 such work gains its value from the designer's re-
28 putation; or
29 e. contains elements of design, detail, materials, or
30 craftsmanship which represent a significant inno-
31 vation; or
32 f. contains any architectural style, detail, or other

1 element in danger of becoming extinct; or
2 g. owing to its unique location or physical character-
3 istics, represents an established and familiar
4 visual feature of a neighborhood or the City.

5 Section 34-6: Certificates of Appropriateness.

6 (a) Certificates of appropriateness required: A certificate of
7 appropriateness must be issued by the Board before a permit is
8 issued for, or work is begun on, any of the following:

9 (1) Within all areas of an historic district:

- 10 a. the demolition of any building;
11 b. the moving of any building;
12 c. a conspicuous change in the exterior appearance of
13 any historic building or any part of or appurtenance
14 to such a building including walls, fences, light
15 fixtures, steps, paving, and signs by additions,
16 reconstruction, alteration, or maintenance involving
17 exterior color change; or
18 d. any new construction of a principal building or ac-
19 cessory building or structure subject to view from
20 a public way; and
21 e. conspicuous and visible changes within the public
22 right-of-way.

23 (2) Within a primary area of an historic district:

- 24 a. a change in walls and fences, or the construction of
25 walls and fences, along public ways in a primary
26 area of an historic district; or
27 b. a conspicuous change in the exterior appearance of
28 nonhistoric buildings subject to view from a public
29 way in a primary area of an historic district, by
30 additions, reconstruction, alteration, or main-
31 tenance involving exterior color change.

32 (b) Application for certificates of appropriateness: An applica-

1 tion for certificate of appropriateness may be made in the
2 office of the Department of Community Development and Planning
3 on forms provided by that office and shall be subject to the
4 following requirements:

5 (1) The Board may adopt, as a part of its rules, filing re-
6 quirements which it finds reasonable and necessary to
7 expedite the business of the Board. These rules may
8 include, but are not limited to, filing deadlines and
9 application requirements such as sketches, drawings,
10 photographs, descriptions, or other information which the
11 board requires to make a decision;

12 (2) No fee shall be charged for such application.

13 (c) Approval or Denial of Certificate of Appropriateness: The
14 Board may approve certificates of appropriateness for any
15 actions covered by this ordinance.

16 (1) If an application for a certificate of appropriateness is
17 approved by the Board or is not acted on by the Board
18 within thirty (30) days after it is filed, a certificate
19 of appropriateness shall be issued after which required
20 permits and work may proceed as authorized by the cer-
21 tificate of appropriateness.

22 (2) If the Board denies an application for a certificate of
23 appropriateness within thirty (30) days after it is
24 filed, the certificate may not be issued. In this case,
25 the Board must state its reasons for the denial in
26 writing and advise the applicant.

27 (3) The Board may grant an extension of the thirty (30) day
28 limit prescribed by subsections C(1) and C(2) if the
29 applicant agrees to it.

30 (4) The Board may advise and make recommendations to the
31 applicant before acting on an application for a cer-
32 tificate of appropriateness.

(5) The Board may make the issuance of approved certificates of appropriateness subject to conditions which must be met by the applicant.

(d) Expiration of Certificate of Appropriateness: At the time a certificate of appropriateness is approved, the Board may set a period, not to exceed twelve (12) months, after which the certificate of appropriateness shall expire. The Board may, at any time, renew a certificate of appropriateness.

(e) Right to Board Review: In any case where an applicant does not receive a certificate of appropriateness or otherwise feels aggrieved by an action of the Administrator, the applicant shall have the right to a review by the Board.

Section 34-7: Maintenance Standards.

(a) Conformance to Statutory Requirements of Buildings: Historic buildings shall be maintained to meet all applicable requirements established under statute for buildings generally.

(b) Ordinary Repairs and Maintenance: Nothing in this ordinance shall be construed so as to prevent the ordinary repairs and maintenance of any building, structure, or site provided that such repairs or maintenance do not result in a conspicuous change in the design, form, proportion, mass, configuration, building material, texture, color, location, or external visual appearance of any structure, or part thereof.

(c) Certificate of Appropriateness Not Required:

(1) Ordinary repairs and maintenance as defined in Section 34-7B may be begun and executed without a certificate of appropriateness issued by the Board.

(2) The Board may adopt as a part of its rules a list of those actions it considers to be ordinary repairs and maintenance and not requiring a certificate of appropriateness.

(3) In determining whether or not specific actions constitute

1 ordinary repairs and maintenance as defined in this or-
2 dinance, persons shall consider this ordinance and any
3 applicable guidelines adopted by the Board in its rules.

- 4 (4) The Board shall review and act upon any case where a
5 question exists as to whether or not a specific action is
6 an ordinary repair or maintenance not requiring a certi-
7 ficate of appropriateness.

8 Section 34-8: Development Standards.

- 9 (a) New Construction, Contemporary Design, and Non-Historic Build-
10 ings: The construction of a new building or structure, and
11 the moving, reconstruction, alteration, major maintenance, or
12 repair involving a color change conspicuously affecting the
13 external appearance of any nonhistoric building, structure, or
14 appurtenance with the primary area must be generally of a
15 design, form, proportion, mass, configuration, building
16 material, texture, color, and location on a lot compatible
17 with other buildings in the historic district (particularly
18 with buildings designated as historic) and with places to
19 which it is visually related.

20 It is not the intent of this ordinance to limit or discourage
21 new construction or other development, nor to limit it to any
22 one period or architectural style, nor to discourage contem-
23 porary architectural expression, but rather to preserve and
24 encourage the integrity of historic buildings, structures,
25 sites, monuments, streetscapes, and neighborhoods and to in-
26 sure their compatibility with any new work.

- 27 (b) Criteria for Considering Effect of Actions on Historic Build-
28 ings: The Board, in considering the appropriateness of any
29 reconstruction, alteration, maintenance, and moving of an
30 historic building or structure, or any part of or appurtenance
31 to such building or structure, including walls, fences, light
32 fixtures, steps, paving, and signs shall require that such

1 work be done in a manner that will preserve the historical and
2 architectural character of the building, structure, or appur-
3 tenance. In considering historic and architectural character,
4 the Board shall consider, among other things, the following:

- 5 (1) Purposes of this ordinance;
- 6 (2) Historical and architectural value and significance of
7 the building, structure, or appurtenance.
- 8 (3) Compatibility, and significance of additions, alterations,
9 details, materials, or other non-original elements which
10 may be of a different style and construction date than
11 the original;
- 12 (4) The texture, material, color, style, and detailing of the
13 building, structure or appurtenance;
- 14 (5) The continued preservation and protection of original or
15 otherwise significant structure, material, and ornamen-
16 tation;
- 17 (6) The relationship of buildings, structures, appurtenances,
18 or architectural features to similar ones within the same
19 historic district, including for primary areas, visual
20 compatibility as defined in subsection (d) below; and
- 21 (7) The position of the building or structure in relation to
22 the street, public right-of-way and to other buildings
23 and structures.

24 (c) Criteria for Moving Historic Buildings: An historic building
25 or structure may be relocated to another site only if it is
26 shown that preservation on its current site is inconsistent
27 with subsection B.

28 (d) Criteria for Considering Visual Compatibility Within Historic
29 Primary Areas: Within the primary area of an historic dis-
30 trict, new buildings and structures, as well as buildings,
31 structures, and appurtenances that are moved, reconstructed,
32 materially altered, repaired, or changed in color, must be

visually compatible with buildings and places to which they are visually related generally in terms of the following visual compatibility factors:

- (1) Height. The height of proposed buildings must be visually compatible with adjacent buildings.
- (2) Proportion of building's front facade. The relationship of the width of a building to the height of the front elevation must be visually compatible with buildings and places to which it is visually related.
- (3) Proportion of openings within the facility. The relationship of the width of the windows to the height of windows in a building must be visually compatible with buildings, squares, and places to which it is visually related.
- (4) Rhythm of solids to voids in front facades. The relationship of solids to voids in the front facade of a building must be visually compatible with buildings and places to which it is visually related.
- (5) Rhythm of spacing of buildings on streets. The relationship of a building to the open space between it and adjoining buildings must be visually compatible with the buildings and places to which it is visually related.
- (6) Rhythm of entrances and porch projections. The relationship of entrances and porch projections to sidewalks of a building must be visually compatible with the buildings and places to which it is visually related.
- (7) Relationship of materials, texture, and color. The relationship of the materials, texture, and color of the facade of a building must be visually compatible with the predominant materials used in the buildings to which it is visually related.
- (8) Roof shapes. The roof shape of a building must be

visually compatible with the buildings to which it is visually related.

(9) Walls of continuity. Appurtenances of a building, such as walls, wrought iron fences, evergreen landscape masses, and building facades, must form cohesive walls of enclosure along the street, if necessary to insure visual compatibility of the building to the buildings and places to which it is visually related.

(10) Scale of the building. The size of a building, and the building mass of a building in relation to open spaces, windows, door openings, porches, and balconies must be visually compatible with the buildings and places to which it is visually related.

(11) Directional expression of front elevation. A building must be visually compatible with the buildings, squares, and places to which it is visually related in its directional character, including vertical character, horizontal character, or nondirectional character.

ARTICLE IV. DEMOLITION AND PUBLIC SAFETY

Section 34-9: Demolition of Buildings and Public Safety.

(a) Purpose: The purpose of this section is to preserve historic buildings and structures that are important to the education, culture, traditions, and economic value of the community by affording the City of Fort Wayne, preservation organizations, and interested persons the opportunity to acquire or arrange for the preservation of these buildings.

(b) Certificate of Appropriateness Required: A certificate of appropriateness must be issued by the Board before a demolition permit is issued by other agencies of the City and work is begun on the demolition of any building or structure in any area of an historic district.

(c) Criteria for Considering Demolition: Criteria for the Board to

1 consider in the case of a proposed demolition include the
2 following:

- 3 (1) Effect, detrimental or not, of the demolition to the
4 character of the historic district;
5 (2) State of deterioration, disrepair, and structural sta-
6 bility of the structure;
7 (3) Balance of the public interest in preserving the struc-
8 ture or the integrity of the district with the interest
9 of the owner of the building or structure in the use and
10 utilization of the property; and
11 (4) Possible alternatives to demolition.

12 (d) Factors for Allowing Demolition Without Certificate of Appro-
13 priateness: If the Board denies the issuance of a certificate
14 of appropriateness for the demolition of a building or struc-
15 ture, a demolition permit may be issued by other agencies and
16 a building may be demolished, but only after establishing all
17 of the following:

- 18 (1) The property owner must demonstrate to the Board that an
19 historic building or structure is incapable of earning an
20 economic return on its value, as appraised by a licensed
21 real estate appraiser.
22 (2) The property owner shall file with the administrator
23 documented evidence that a good faith effort is being
24 made to sell or otherwise dispose of such property at or
25 below fair market value to any public or private person
26 or agency which gives a reasonable assurance of its
27 willingness to preserve and restore such property. Such
28 documented evidence shall be provided at the property
29 owner's expense and shall include:
30 a. Offering price;
31 b. Date the offer of sale is to begin;
32 c. Name and address of listing real estate agent, if

any;

d. A copy of an advertisement to run in the same manner as the notice in Section 34-9D(3) which offers the property for sale; and

e. An appraisal of the property's fair market value by a licensed real estate appraiser.

(3) Notice of the proposed demolition must be given for a period fixed by the Board, based on the Board's classification on the approved map, but not less than sixty (60) days nor more than one (1) year. Notice must be posted on the premises of the building or structure proposed for demolition in a location clearly visible from the street. In addition, notice must be published in a newspaper of general local circulation at least three (3) times before demolition, with the first publication not more than fifteen (15) days after the application for a permit to demolish is filed, and the final publication at least fifteen (15) days before the date of the permit.

The Board may approve a certificate of appropriateness at any time during the notice period described in the preceeding paragraph. If the certificate is approved, a demolition permit shall be issued without further delay, and demolition may proceed.

Section 34-10: Public Safety.

Nothing in this ordinance shall be construed to prevent the construction, reconstruction, alteration, or demolition of a structure, building, or any part thereof within an historic district when so ordered by an agency of government having jurisdiction thereof provided that the following actions occur first:

(a) The agency having jurisdiction shall determine that a structure or building or any part thereof is immediately hazardous or dangerous to the health and safety of persons or to property;

(b) The agency issuing such an order shall so notify the Board

1 administrator who in turn shall notify the Board; and

- 2 (c) If demolition is ordered, the agency issuing such an order
3 shall make every effort possible to secure the property or
4 otherwise delay demolition until the Board can act as desig-
5 nated in this Section. Demolition so ordered may occur prior
6 to Board action only when an immediate hazard or danger to the
7 health and safety of persons or property exists and no rea-
8 sonable steps can be taken to afford protection to persons or
9 property affected.

10 ARTICLE V. ADMINISTRATION AND ENFORCEMENT

11 Section 34-11: Conflicts with Zoning Districts.

12 Zoning districts lying within the boundaries of the historic district
13 are subject to regulations for both the zoning district and the historic
14 district. If there is conflict between the requirements of the zoning
15 district and the requirements of the historic district, the more restric-
16 tive requirements apply.

17 Section 34-12: Enforcement, Penalties, and Judicial Review.

- 18 (a) Enforcement: This ordinance shall be enforced using personnel
19 and policies designated by the Director of the Department of
20 Community Development and Planning.

21 (b) Penalties:

- 22 (1) Any person, whether as principal, agent, owner, lessee,
23 tenant, contractor, builder, architect, engineer, or
24 otherwise who violates any provision of this ordinance
25 shall be guilty of a misdemeanor and upon conviction .
26 shall be punished by a fine as follows, for each offense:
27 a. not less than ten (10) dollars nor more than twenty
28 five hundred (2,500) dollars for demolition.
29 b. not less than ten (10) dollars nor more than three
30 hundred (300) dollars for all other offenses.

31 Each day of the existence of any violation of this or-
32 dinance shall be a separate offense.

1 (2) The erection, construction, enlargement, alteration,
2 repair, demolition, color change, moving, or maintenance
3 of any building, structure, or appurtenance which is
4 begun, continued, or maintained contrary to any provi-
5 sions of this ordinance is hereby declared to be a
6 nuisance and in violation of this ordinance and unlawful.
7 The City of Fort Wayne may institute a suit for injunc-
8 tion in the Circuit Court or Superior Court of the
9 County to restrain any person or governmental unit from
10 violating any provision of this chapter and to cause such
11 violation to be prevented, abated or removed. Such
12 action may also be instituted by any property owner who
13 is adversely affected by the violation of any provision
14 of this chapter.

15 (3) The remedies provided for in this section shall be
16 cumulative and not exclusive and shall be in addition to
17 any other remedies provided by law.

18 (c) Judicial Review: Any person or party aggrieved by a decision
19 or action taken by the Board shall be entitled to a judicial
20 review thereof in accordance with I.C. 4-22-1.

21 Section 34-13: Recording the Fact of Historic District Designation.
22 The boundaries of any historic district may be recorded in the Office of
23 the Allen County Recorder.

24 Section 34-14: Designated Historic Districts.

25 (a) Pre-existing Historic Districts: The following historic dis-
26 tricts established under previous ordinances shall be subject
27 to this ordinance, but in all other respects shall remain
28 unchanged. All areas within existing districts shall be
29 considered primary areas as defined in this ordinance.

30 (1) The Landing

31 (2) Embassy Theatre and Indiana Hotel Building, 121 W. Jef-
32 ferson Boulevard

- (3) Fire Station #13, 226 W. Washington Boulevard
(4) Trinity Episcopal Church, 611 W. Berry St.
(5) The Canal House, 114 E. Superior
(6) McCulloch House on Superior Street, 616 W. Superior
(7) Chief Richardville Residence, 5705 Bluffton Road
(8) 916 South Calhoun Street
(9) 817 South Barr Street
(10) 618-20 South Calhoun Street


(b) Historic Districts Established by this Ordinance: Upon approval of historic district maps by Common Council in accordance with this ordinance, such districts shall be incorporated in this ordinance by amendment and listed in this subsection.

Section 34-15: If any section, clause, provision, or portion of this Chapter is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Chapter shall not be affected thereby.

SECTION 5. This ordinance shall be in full force and effect from and after its passage and approval by the Mayor.


Councilmember

APPROVED AS TO FORM
AND LEGALITY


Bruce O. Boxberger, City Attorney

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25 the continued existence, restoration, and preservation of historic areas
26 and buildings, the construction of compatible new buildings where
27 appropriate, and a general compatibility as to style, form, proportion,
28 texture, and material between the buildings of historic design and those
29 of contemporary design. This purpose is advanced through the preservation
30 and protection of the historically or architecturally worthy structures,
31 sites, and districts which impart a distinct aesthetic quality to the
32 City and which serve as visible reminders of the historic heritage of

1 the City.

2 ARTICLE II. HISTORIC PRESERVATION REVIEW BOARD

3 Section 34-2. Establishment of the Historic Preservation Review Board.

4 (a) Creation: For the purpose of making effective the provisions
5 of this ordinance, there is hereby established an historic
6 district board of review to be known as the Historic Preser-
7 vation Review Board (hereinafter referred to as "the Board").

8 (b) Staffing: The staff of the City of Fort Wayne Department of
9 Community Development and Planning (hereinafter referred to as
10 "the staff") shall serve as staff to the Board. Each official
11 of the City who has responsibility for building inspection,
12 building permits, planning, or zoning shall provide necessary
13 technical, administrative, or clerical assistance requested by
14 the Board.

15 (c) Composition: The Board shall consist of seven (7) voting
16 members who must be residents of the City of Fort Wayne. All
17 members shall be appointed by the Mayor of the City of Fort
18 Wayne subject to the approval of the Fort Wayne Common Council
19 (hereinafter referred to as "Common Council"). Of the members
20 appointed, at least one shall be an architect with Indiana
21 architectural certification; at least one shall own or lease
22 property in a designated historic district; at least one shall
23 be a contractor licensed by the Fort Wayne/Allen County Build-
24 ing Department; at least one shall be an historian; and all
25 members shall have an interest in the preservation and develop-
26 ment of historic buildings and areas.

27 One non-voting, advisory member may be appointed to the Board
28 in the same manner as voting members. Such a member shall
29 have recognized expertise in the field of historic preserva-
30 tion. The term of the advisory member shall be for one (1)
31 year commencing on January 1 and expiring on December 31. No
32 voting member shall be employed by the City of Fort Wayne.

- 1 (d) Terms of Office: Terms of voting Board members appointed to
2 terms commencing January 1, 1985 shall be staggered as fol-
3 lows: three (3) members for three (3) year terms, two (2)
4 members for two (2) year terms, and two (2) members for one
5 (1) year terms. Thereafter, voting members shall each serve
6 for a term of three (3) years. All terms shall commence on
7 January 1 and expire on December 31. A vacancy shall be
8 filled through appointment by the Mayor and approval of the
9 Common Council only for the unexpired duration of the term.
10 Board members appointed consistent with Article IX of Chapter
11 33 shall constitute the Board under this ordinance until
12 December 31, 1984 after which it shall be dissolved and re-
13 appointed consistent with this ordinance.
- 14 (e) Serve Without Compensation: Members of the Board shall serve
15 without compensation except for reasonable expenses incurred
16 in the performance of their duties.

17 Section 34-3: Organization of the Board.

- 18 (a) Board Administrator: The Director of the Department of Com-
19 munity Development and Planning or his designee shall serve
20 exofficio as administrator of the Board. The administrator
21 shall provide staff assistance to the Board, act as the Board's
22 secretary, and issue certificates of appropriateness as di-
23 rected by the Board.
- 24 (b) Board Officers: The Board shall elect from its membership a
25 chairman and vice chairman, who shall serve for one (1) year
26 and may be re-elected.
- 27 (c) Board Meeting: The Board shall hold regular meetings, at
28 least monthly, except when it has no business pending. Spe-
29 cial meetings may be called in a manner determined by the
30 Board in its rules. All meetings of the Board must be open to
31 the public, and a public record of the Board's resolutions,
32 proceedings, and actions must be kept.

- 1 (d) Board Rules: The Board shall adopt rules consistent with this
2 ordinance for the transaction of its business. The rules
3 shall include, but not be limited to, the following:
4 (1) time and place of regular meetings
5 (2) a procedure for the calling of special meetings
6 (e) Quorum: A quorum of four (4) voting members of the Board must
7 be present at a meeting for the Board to take action.
8 (f) Board Action: Any action of the Board taken at a meeting at
9 which a quorum is present shall be determined by a majority of
10 those actually voting.

11 Section 34-4: Powers of the Board.

- 12 (a) The Board shall be concerned with those elements of develop-
13 ment, redevelopment, rehabilitation, and preservation that
14 affect visual quality in the historic district.
15 (b) The Board may not consider details of design, interior ar-
16 rangements, or building features if those details, arrange-
17 ments, or features are not subject to public view.
18 (c) The Board may not make any requirement except for the purpose
19 of preventing development, alteration, or demolition in the
20 historic district obviously incongruous with the historic
21 district.
22 (d) The Board shall conduct a survey or may adopt existing surveys
23 to identify historic buildings, structures, places located
24 within the City.
25 (e) The Board may draw and submit to the Common Council for its
26 approval a map or maps describing the boundaries of an his-
27 toric district or historic districts. Any such map shall
28 first be submitted to the Plan Commission for its review and
29 comment.
30 (f) The Board may issue certificates of appropriateness for any
31 actions required by Section 34-6 of this ordinance.
32 (g) The Board may adopt rules consistent with this ordinance

1 designating more specifically situations not requiring a
2 Certificate of Appropriateness under Section 34-6.

3 ARTICLE III. HISTORIC DISTRICTS AND STANDARDS TO APPLY THEREIN

4 Section 34-5: Establishment of Historic Districts.

5 (a) Initiating An Historic District Recommendation: A recommen-
6 dation for establishing an historic district may be initiated
7 from either of the following two sources:

8 (1) Based on its survey, the Board may draw and submit in
9 accordance with this ordinance historic district maps for
10 Common Council approval. Such maps shall first be
11 submitted to the Plan Commission for its review and
12 comment.

13 (2) Owners of property in fee simple wishing to establish an
14 historic district which includes their property may
15 petition the Board to consider drawing and submitting a
16 map of said property to the Common Council for its
17 approval. The Board may establish in its rules criteria
18 to be met before it considers a petition.

19 (b) Preparation of historic district maps: In order to establish
20 an historic district, the Board shall first prepare a map
21 describing said district in accordance with the following:

22 (1) The map shall be based on a survey conducted or adopted
23 by the Board which identifies historic buildings, struc-
24 tures, and places located within Fort Wayne.

25 (2) A district may be limited to the boundaries of a property
26 containing a single building, structure, or site.

27 (3) The map may divide the district into primary and second-
28 ary areas as follows:

29 a. Primary Area - The principal area of historic and
30 architectural significance.

31 b. Secondary Area - An area adjacent to a primary area
32 which has a visual relationship to the primary area

1 and could affect the preservation of the primary
2 area. The purpose of designating a secondary area
3 is to assure its compatibility and harmony with an
4 adjacent primary area.

5 (4) The Board shall also classify and designate on the map
6 all buildings and structures within each historic dis-
7 trict described on the map as follows:

8 a. Historic - Such buildings and structures must pos-
9 sess identified historic and architectural merit of
10 a degree warranting their preservation. These may
11 be further classified by any system which the board
12 devises.

13 b. Nonhistoric - Buildings and structures not clas-
14 sified on the map as historic.

15 (c) Approval of maps of historic districts: Before an historic
16 district is established and the building classifications take
17 effect, the map setting forth its boundaries and building
18 classifications must be submitted to, and approved in an or-
19 dinance by, the Common Council. The procedure for doing so
20 shall be as follows:

- 21 (1) In accordance with Section 34-3 of this ordinance, the
22 Board must take official action deciding whether or not
23 to submit a map to Common Council for its approval.
- 24 (2) Prior to taking action at a meeting, the Board shall hold
25 a public hearing to allow public comment. A public
26 hearing may be held separately or in conjunction with the
27 meeting where action on the district is to occur.
- 28 (3) A public hearing held by the Board for the purpose of
29 allowing comment on a proposed historic district de-
30 signation shall be preceded by public notice as set forth
31 in I.C. 5-3-1.

32 (4) Before submitting a map to Common Council, the Board

1 shall first submit it to the Plan Commission for its
2 review and comment.

3 (d) Historic District Criteria - An historic district shall not be
4 established unless the proposed map includes a building,
5 groups of buildings, structure(s), site(s), monument(s),
6 streetscape(s), or neighborhood(s) which meet at least one of
7 the following criteria:

8 (1) Historic

- 9 a. has significant character, interest, or value as
10 part of the development, heritage, or cultural
11 characteristics of the City, State, or Nation; or is
12 associated with the life of a person significant in
13 the past; or
14 b. is the site of an historic event with a significant
15 effect upon society; or
16 c. exemplifies the cultural, political, economic,
17 social, or historic heritage of the community.

18 (2) Architecturally Worthy

- 19 a. portrays the environment in an era of history char-
20 acterized by a distinctive architectural style; or
21 b. embodies those distinguishing characteristics of an
22 architectural or engineering type; or
23 c. is the work of a designer whose individual work has
24 significantly influenced the development of the
25 community; or
26 d. is the work of a designer of such prominence that
27 such work gains its value from the designer's re-
28 putation; or
29 e. contains elements of design, detail, materials, or
30 craftsmanship which represent a significant inno-
31 vation; or
32 f. contains any architectural style, detail, or other

1 element in danger of becoming extinct; or

- 2 g. owing to its unique location or physical character-
3 istics, represents an established and familiar
4 visual feature of a neighborhood or the City.

5 Section 34-6: Certificates of Appropriateness.

6 (a) Certificates of appropriateness required: A certificate of
7 appropriateness must be issued by the Board before a permit is
8 issued for, or work is begun on, any of the following:

9 (1) Within all areas of an historic district:

- 10 a. the demolition of any building;
11 b. the moving of any building;
12 c. a conspicuous change in the exterior appearance of
13 any historic building or any part of or appurtenance
14 to such a building including walls, fences, light
15 fixtures, steps, paving, and signs by additions,
16 reconstruction, alteration, or maintenance involving
17 exterior color change; or
18 d. any new construction of a principal building or ac-
19 cessory building or structure subject to view from
20 a public way; and
21 e. conspicuous and visible changes within the public
22 right-of-way.

23 (2) Within a primary area of an historic district:

- 24 a. a change in walls and fences, or the construction of
25 walls and fences, along public ways in a primary
26 area of an historic district; or
27 b. a conspicuous change in the exterior appearance of
28 nonhistoric buildings subject to view from a public
29 way in a primary area of an historic district, by
30 additions, reconstruction, alteration, or main-
31 tenance involving exterior color change.

32 (b) Application for certificates of appropriateness: An applica-

1 tion for certificate of appropriateness may be made in the
2 office of the Department of Community Development and Planning
3 on forms provided by that office and shall be subject to the
4 following requirements:

5 (1) The Board may adopt, as a part of its rules, filing re-
6 quirements which it finds reasonable and necessary to
7 expedite the business of the Board. These rules may
8 include, but are not limited to, filing deadlines and
9 application requirements such as sketches, drawings,
10 photographs, descriptions, or other information which the
11 board requires to make a decision;

12 (2) No fee shall be charged for such application.

13 (c) Approval or Denial of Certificate of Appropriateness: The
14 Board may approve certificates of appropriateness for any
15 actions covered by this ordinance.

16 (1) If an application for a certificate of appropriateness is
17 approved by the Board or is not acted on by the Board
18 within thirty (30) days after it is filed, a certificate
19 of appropriateness shall be issued after which required
20 permits and work may proceed as authorized by the cer-
21 tificate of appropriateness.

22 (2) If the Board denies an application for a certificate of
23 appropriateness within thirty (30) days after it is
24 filed, the certificate may not be issued. In this case,
25 the Board must state its reasons for the denial in
26 writing and advise the applicant.

27 (3) The Board may grant an extension of the thirty (30) day
28 limit prescribed by subsections C(1) and C(2) if the
29 applicant agrees to it.

30 (4) The Board may advise and make recommendations to the
31 applicant before acting on an application for a cer-
32 tificate of appropriateness.

1 (5) The Board may make the issuance of approved certificates
2 of appropriateness subject to conditions which must be
3 met by the applicant.

4 (d) Expiration of Certificate of Appropriateness: At the time a
5 certificate of appropriateness is approved, the Board may set
6 a period, not to exceed twelve (12) months, after which the
7 certificate of appropriateness shall expire. The Board may,
8 at any time, renew a certificate of appropriateness.

9 (e) Right to Board Review: In any case where an applicant does not
10 receive a certificate of appropriateness or otherwise feels
11 aggrieved by an action of the Administrator, the applicant
12 shall have the right to a review by the Board.

13 Section 34-7: Maintenance Standards.

14 (a) Conformance to Statutory Requirements of Buildings: Historic
15 buildings shall be maintained to meet all applicable require-
16 ments established under statute for buildings generally.

17 (b) Ordinary Repairs and Maintenance: Nothing in this ordinance
18 shall be construed so as to prevent the ordinary repairs and
19 maintenance of any building, structure, or site provided that
20 such repairs or maintenance do not result in a conspicuous
21 change in the design, form, proportion, mass, configuration,
22 building material, texture, color, location, or external
23 visual appearance of any structure, or part thereof.

24 (c) Certificate of Appropriateness Not Required:

25 (1) Ordinary repairs and maintenance as defined in Section
26 34-7B may be begun and executed without a certificate of
27 appropriateness issued by the Board.

28 (2) The Board may adopt as a part of its rules a list of
29 those actions it considers to be ordinary repairs and
30 maintenance and not requiring a certificate of appro-
31 priateness.

32 (3) In determining whether or not specific actions constitute

1 ordinary repairs and maintenance as defined in this or-
2 dinance, persons shall consider this ordinance and any
3 applicable guidelines adopted by the Board in its rules.

4 (4) The Board shall review and act upon any case where a
5 question exists as to whether or not a specific action is
6 an ordinary repair or maintenance not requiring a certi-
7 ficate of appropriateness.

8 Section 34-8: Development Standards.

9 (a) New Construction, Contemporary Design, and Non-Historic Build-
10 ings: The construction of a new building or structure, and
11 the moving, reconstruction, alteration, major maintenance, or
12 repair involving a color change conspicuously affecting the
13 external appearance of any nonhistoric building, structure, or
14 appurtenance with the primary area must be generally of a
15 design, form, proportion, mass, configuration, building
16 material, texture, color, and location on a lot compatible
17 with other buildings in the historic district (particularly
18 with buildings designated as historic) and with places to
19 which it is visually related.

20 It is not the intent of this ordinance to limit or discourage
21 new construction or other development, nor to limit it to any
22 one period or architectural style, nor to discourage contem-
23 porary architectural expression, but rather to preserve and
24 encourage the integrity of historic buildings, structures,
25 sites, monuments, streetscapes, and neighborhoods and to in-
26 sure their compatibility with any new work.

27 (b) Criteria for Considering Effect of Actions on Historic Build-
28 ings: The Board, in considering the appropriateness of any
29 reconstruction, alteration, maintenance, and moving of an
30 historic building or structure, or any part of or appurtenance
31 to such building or structure, including walls, fences, light
32 fixtures, steps, paving, and signs shall require that such

1 work be done in a manner that will preserve the historical and
2 architectural character of the building, structure, or appur-
3 tenance. In considering historic and architectural character,
4 the Board shall consider, among other things, the following:

- 5 (1) Purposes of this ordinance;
- 6 (2) Historical and architectural value and significance of
7 the building, structure, or appurtenance.
- 8 (3) Compatibility, and significance of additions, alterations,
9 details, materials, or other non-original elements which
10 may be of a different style and construction date than
11 the original;
- 12 (4) The texture, material, color, style, and detailing of the
13 building, structure or appurtenance;
- 14 (5) The continued preservation and protection of original or
15 otherwise significant structure, material, and ornamen-
16 tation;
- 17 (6) The relationship of buildings, structures, appurtenances,
18 or architectural features to similar ones within the same
19 historic district, including for primary areas, visual
20 compatibility as defined in subsection (d) below; and
- 21 (7) The position of the building or structure in relation to
22 the street, public right-of-way and to other buildings
23 and structures.

24 (c) Criteria for Moving Historic Buildings: An historic building
25 or structure may be relocated to another site only if it is
26 shown that preservation on its current site is inconsistent
27 with subsection B.

28 (d) Criteria for Considering Visual Compatibility Within Historic
29 Primary Areas: Within the primary area of an historic dis-
30 trict, new buildings and structures, as well as buildings,
31 structures, and appurtenances that are moved, reconstructed,
32 materially altered, repaired, or changed in color, must be

1 visually compatible with buildings and places to which they
2 are visually related generally in terms of the following
3 visual compatibility factors:

- 4 (1) Height. The height of proposed buildings must be vi-
5 sually compatible with adjacent buildings.
- 6 (2) Proportion of building's front facade. The relationship
7 of the width of a building to the height of the front
8 elevation must be visually compatible with buildings and
9 places to which it is visually related.
- 10 (3) Proportion of openings within the facility. The rela-
11 tionship of the width of the windows to the height of
12 windows in a building must be visually compatible with
13 buildings, squares, and places to which it is visually
14 related.
- 15 (4) Rhythm of solids to voids in front facades. The rela-
16 tionship of solids to voids in the front facade of a
17 building must be visually compatible with buildings and
18 places to which it is visually related.
- 19 (5) Rhythm of spacing of buildings on streets. The rela-
20 tionship of a building to the open space between it and
21 adjoining buildings must be visually compatible with the
22 buildings and places to which it is visually related.
- 23 (6) Rhythm of entrances and porch projections. The rela-
24 tionship of entrances and porch projections to sidewalks
25 of a building must be visually compatible with the build-
26 ings and places to which it is visually related.
- 27 (7) Relationship of materials, texture, and color. The
28 relationship of the materials, texture, and color of the
29 facade of a building must be visually compatible with the
30 predominant materials used in the buildings to which it
31 is visually related.
- 32 (8) Roof shapes. The roof shape of a building must be

1 visually compatible with the buildings to which it is
2 visually related.

3 (9) Walls of continuity. Appurtenances of a building, such
4 as walls, wrought iron fences, evergreen landscape masses,
5 and building facades, must form cohesive walls of enclo-
6 sure along the street, if necessary to insure visual
7 compatibility of the building to the buildings and places
8 to which it is visually related.

9 (10) Scale of the building. The size of a building, and the
10 building mass of a building in relation to open spaces,
11 windows, door openings, porches, and balconies must be
12 visually compatible with the buildings and places to
13 which it is visually related.

14 (11) Directional expression of front elevation. A building
15 must be visually compatible with the buildings, squares,
16 and places to which it is visually related in its direc-
17 tional character, including vertical character, hori-
18 zontal character, or nondirectional character.

19 ARTICLE IV. DEMOLITION AND PUBLIC SAFETY

20 Section 34-9: Demolition of Buildings and Public Safety.

21 (a) Purpose: The purpose of this section is to preserve historic
22 buildings and structures that are important to the education,
23 culture, traditions, and economic value of the community by
24 affording the City of Fort Wayne, preservation organizations,
25 and interested persons the opportunity to acquire or arrange
26 for the preservation of these buildings.

27 (b) Certificate of Appropriateness Required: A certificate of
28 appropriateness must be issued by the Board before a demoli-
29 tion permit is issued by other agencies of the City and work
30 is begun on the demolition of any building or structure in any
31 area of an historic district.

32 (c) Criteria for Considering Demolition: Criteria for the Board to

1 consider in the case of a proposed demolition include the
2 following:

- 3 (1) Effect, detrimental or not, of the demolition to the
4 character of the historic district;
- 5 (2) State of deterioration, disrepair, and structural sta-
6 bility of the structure;
- 7 (3) Balance of the public interest in preserving the struc-
8 ture or the integrity of the district with the interest
9 of the owner of the building or structure in the use and
10 utilization of the property; and
- 11 (4) Possible alternatives to demolition.

12 (d) Factors for Allowing Demolition Without Certificate of Appro-
13 priateness: If the Board denies the issuance of a certificate
14 of appropriateness for the demolition of a building or struc-
15 ture, a demolition permit may be issued by other agencies and
16 a building may be demolished, but only after establishing all
17 of the following:

- 18 (1) The property owner must demonstrate to the Board that an
19 historic building or structure is incapable of earning an
20 economic return on its value, as appraised by a licensed
21 real estate appraiser.
- 22 (2) The property owner shall file with the administrator
23 documented evidence that a good faith effort is being
24 made to sell or otherwise dispose of such property at or
25 below fair market value to any public or private person
26 or agency which gives a reasonable assurance of its
27 willingness to preserve and restore such property. Such
28 documented evidence shall be provided at the property
29 owner's expense and shall include:
 - 30 a. Offering price;
 - 31 b. Date the offer of sale is to begin;
 - 32 c. Name and address of listing real estate agent, if

1 any;

2 d. A copy of an advertisement to run in the same manner
3 as the notice in Section 34-9D(3) which offers the
4 property for sale; and

5 e. An appraisal of the property's fair market value by
6 a licensed real estate appraiser.

7 (3) Notice of the proposed demolition must be given for a
8 period fixed by the Board, based on the Board's classi-
9 fication on the approved map, but not less than sixty
10 (60) days nor more than one (1) year. Notice must be
11 posted on the premises of the building or structure pro-
12 posed for demolition in a location clearly visible from
13 the street. In addition, notice must be published in a
14 newspaper of general local circulation at least three (3)
15 times before demolition, with the first publication not
16 more than fifteen (15) days after the application for a
17 permit to demolish is filed, and the final publication at
18 least fifteen (15) days before the date of the permit.

19 The Board may approve a certificate of appropriateness at any time
20 during the notice period described in the preceeding paragraph. If the
21 certificate is approved, a demolition permit shall be issued without
22 further delay, and demolition may proceed.

23 Section 34-10: Public Safety.

24 Nothing in this ordinance shall be construed to prevent the construction,
25 reconstruction, alteration, or demolition of a structure, building, or
26 any part thereof within an historic district when so ordered by an
27 agency of government having jurisdiction thereof provided that the
28 following actions occur first:

29 (a) The agency having jurisdiction shall determine that a structure
30 or building or any part thereof is immediately hazardous or
31 dangerous to the health and safety of persons or to property;

32 (b) The agency issuing such an order shall so notify the Board

1 administrator who in turn shall notify the Board; and

- 2 (c) If demolition is ordered, the agency issuing such an order
3 shall make every effort possible to secure the property or
4 otherwise delay demolition until the Board can act as desig-
5 nated in this Section. Demolition so ordered may occur prior
6 to Board action only when an immediate hazard or danger to the
7 health and safety of persons or property exists and no rea-
8 sonable steps can be taken to afford protection to persons or
9 property affected.

10 ARTICLE V. ADMINISTRATION AND ENFORCEMENT

11 Section 34-11: Conflicts with Zoning Districts.

12 Zoning districts lying within the boundaries of the historic district
13 are subject to regulations for both the zoning district and the historic
14 district. If there is conflict between the requirements of the zoning
15 district and the requirements of the historic district, the more restric-
16 tive requirements apply.

17 Section 34-12: Enforcement, Penalties, and Judicial Review.

- 18 (a) Enforcement: This ordinance shall be enforced using personnel
19 and policies designated by the Director of the Department of
20 Community Development and Planning.

21 (b) Penalties:

- 22 (1) Any person, whether as principal, agent, owner, lessee,
23 tenant, contractor, builder, architect, engineer, or
24 otherwise who violates any provision of this ordinance
25 shall be guilty of a misdemeanor and upon conviction .
26 shall be punished by a fine as follows, for each offense:
27 a. not less than ten (10) dollars nor more than twenty
28 five hundred (2,500) dollars for demolition.
29 b. not less than ten (10) dollars nor more than three
30 hundred (300) dollars for all other offenses.

31 Each day of the existence of any violation of this or-
32 dinance shall be a separate offense.

1 (2) The erection, construction, enlargement, alteration,
2 repair, demolition, color change, moving, or maintenance
3 of any building, structure, or appurtenance which is
4 begun, continued, or maintained contrary to any provi-
5 sions of this ordinance is hereby declared to be a
6 nuisance and in violation of this ordinance and unlawful.
7 The City of Fort Wayne may institute a suit for injunc-
8 tion in the Circuit Court or Superior Court of the
9 County to restrain any person or governmental unit from
10 violating any provision of this chapter and to cause such
11 violation to be prevented, abated or removed. Such
12 action may also be instituted by any property owner who
13 is adversely affected by the violation of any provision
14 of this chapter.

15 (3) The remedies provided for in this section shall be
16 cumulative and not exclusive and shall be in addition to
17 any other remedies provided by law.

18 (c) Judicial Review: Any person or party aggrieved by a decision
19 or action taken by the Board shall be entitled to a judicial
20 review thereof in accordance with I.C. 4-22-1.

21 Section 34-13: Recording the Fact of Historic District Designation.

22 The boundaries of any historic district may be recorded in the Office of
23 the Allen County Recorder.

24 Section 34-14: Designated Historic Districts.

25 (a) Pre-existing Historic Districts: The following historic dis-
26 tricts established under previous ordinances shall be subject
27 to this ordinance, but in all other respects shall remain
28 unchanged. All areas within existing districts shall be
29 considered primary areas as defined in this ordinance.

30 (1) The Landing

31 (2) Embassy Theatre and Indiana Hotel Building, 121 W. Jef-
32 ferson Boulevard

- (3) Fire Station #13, 226 W. Washington Boulevard
(4) Trinity Episcopal Church, 611 W. Berry St.
(5) The Canal House, 114 E. Superior
(6) McCulloch House on Superior Street, 616 W. Superior
(7) Chief Richardville Residence, 5705 Bluffton Road
(8) 916 South Calhoun Street
(9) 817 South Barr Street
(10) 618-20 South Calhoun Street

(b) Historic Districts Established by this Ordinance: Upon approval of historic district maps by Common Council in accordance with this ordinance, such districts shall be incorporated in this ordinance by amendment and listed in this subsection.

Section 34-15: If any section, clause, provision, or portion of this Chapter is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Chapter shall not be affected thereby.

SECTION 5. This ordinance shall be in full force and effect from and after its passage and approval by the Mayor.

Councilmember

APPROVED AS TO FORM
AND LEGALITY

Bruce O. Boxberger, City Attorney

Read the first time in full and on motion by Bradbury, seconded by Don Juma, and duly adopted, read the second time by title and referred to the Committee Regulations (and the City Plan Commission for recommendation) and Public Hearing to be held after due legal notice, at the Council Chambers, City-County Building, Fort Wayne, Indiana, on _____, the _____ day of _____, 19____, at _____ o'clock _____ M., E.S.

DATE: 5-15-84

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Read the third time in full and on motion by Bradbury, seconded by Don Juma, and duly adopted, placed on its passage. PASSED (LOST) by the following vote:

	<u>AYES</u>	<u>NAYS</u>	<u>ABSTAINED</u>	<u>ABSENT</u>	<u>TO-WIT:</u>
<u>TOTAL VOTES</u>	<u>9</u>	_____	_____	_____	_____
<u>BRADBURY</u>	<u>✓</u>	_____	_____	_____	_____
<u>BURNS</u>	<u>✓</u>	_____	_____	_____	_____
<u>EISBART</u>	<u>✓</u>	_____	_____	_____	_____
<u>GIAQUINTA</u>	<u>✓</u>	_____	_____	_____	_____
<u>HENRY</u>	<u>✓</u>	_____	_____	_____	_____
<u>REDD</u>	<u>✓</u>	_____	_____	_____	_____
<u>SCHMIDT</u>	<u>✓</u>	_____	_____	_____	_____
<u>STIER</u>	<u>✓</u>	_____	_____	_____	_____
<u>TALARICO</u>	<u>✓</u>	_____	_____	_____	_____

DATE: 5-22-84

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as (ANNEXATION) ~~(APPROPRIATION)~~ (GENERAL) (SPECIAL). (ZONING MAP) ORDINANCE (RESOLUTION) NO. B-10-84 on the 22nd day of May, 1984,

ATTEST:

Sandra E. Kennedy

(SEAL)

Ray A. Ebert

SANDRA E. KENNEDY, CITY CLERK

PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 23rd day of May, 1984, at the hour of 11:30 o'clock A M., E.S.T.

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Approved and signed by me this 23rd day of May, 1984, at the hour of 3 o'clock P M., E.S.T.

Win Moses, Jr.
WIN MOSES, JR., MAYOR

BILL NO. G-84-05-19

REPORT OF THE COMMITTEE ON REGULATIONS

WE, YOUR COMMITTEE ON REGULATIONS TO WHOM WAS REFERRED AN
ORDINANCE Creating a New Chapter providing for Historic Preservation
Districts

HAVE HAD SAID ORDINANCE UNDER CONSIDERATION AND BEG LEAVE TO REPORT
BACK TO THE COMMON COUNCIL THAT SAID ORDINANCE Do PASS.

JANET G. BRADBURY, CHAIRWOMAN

Janet G. Bradbury

SAMUEL J. TALARICO, VICE CHAIRMAN

CHARLES B. REDD

Charles B. Redd

MARK E. GIAQUINTA

Mark E. Giaquinta

JAMES S. STIER

James S. Stier

CONCURRED IN 5-22-84
SANDRA E. KENNEDY, CITY CLERK

- 1) stabilize
- 2) enhance neighborhood
- 3) pride in "non-historic"

DIGEST SHEET

TITLE OF ORDINANCE An Ordinance Creating a New Chapter Providing for Historic Preservation Districts

DEPARTMENT REQUESTING ORDINANCE Community Development and Planning 884-05-19

SYNOPSIS OF ORDINANCE This ordinance replaces the present historic district article which is a part of the zoning ordinance and will exist outside the zoning ordinance in its own chapter. The major reason for passing this ordinance is to bring our local historic district legislation in conformance with the new State Enabling Legislation. This ordinance does not radically alter the way historic districts are designated or regulated. City Council continues to have final approval of district designation and there is no change in types of activities which can or can not be done without a Certificate of Appropriateness. The Historic Preservation Review Board remains essentially the same except that there will now be a requirement that one member own or lease property in a district.

EFFECT OF PASSAGE Our local historic district ordinance will be in conformance with State law. The procedures for designating and regulating districts will be clarified and will operate more efficiently.

EFFECT OF NON-PASSAGE Our local law will not be in conformance with State law.

MONEY INVOLVED (Direct Costs, Expenditures, Savings) None

(ASSIGN TO COMMITTEE (J.N.))